

та контроль за режимом перебування і роботою іноземних громадян та осіб без громадянства у складі екіпажів українських судів.

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EUROPEAN UNITY IN FACE OF BREXIT

*Brexit is one of the most interesting events to be
discussed and studied by an outside observer,
but it turns to be a major source of worry and frustration
for those who it concerns.*

Michael Russel, Minister for UK Negotiations
on Scotland's Place in Europe¹.

The referendum of 23rd June 2016, where the citizens of Great Britain decided for their country to leave the EU, was a significant caesura in the history of European integration. The decision of the United Kingdom to leave the European Union following the referendum is probably the most

¹ That was a final remark of the Minister during his meeting with me as a participant of the 9th Network Europe Conference organized by the EuropaInstitute (the University of Zurich) and the University of Edinburgh

exciting drama to be observed and commented on in a generation. Never before has a member state voluntarily turned its back on the Union. What is more, the Brexit hits the Union during a complex situation raising the following questions:

1. What are the mechanisms, procedures, timing and scenarios of further cooperation between a leaving member-state and the EU?

2. Can certain parts of the United Kingdom – Scotland – obtain an extraterritorial legal status and retain the application of the EU *acquis* on their territory, under BREXIT conditions?

3. How to overcome the current crisis inside the EU, prevent a “Brexit domino effect”, prove the attractiveness and efficiency of the European project and preserve European unity in face of a new reality?

This paper will explore all the possible options to answer to the above questions.

1. The mechanism for leaving the EU is provided by the Treaty of Lisbon. Any member-state may exit the Union by invoking Article 50 which starts a two-year process for leaving. As this Article was triggered on March 29, 2017, the Brexit Day is supposed to be on March 29, 2019. There are several scenarios for further cooperation between the United Kingdom and the European Union. It may be a traditional cooperation under the classical method of inter-mutual relations. The second scenario includes the application of the Norwegian model – the format of the relations between the European Union and Norway, which provides the possibility of enjoying benefits of the EU single market in exchange for certain financial contributions to the European Union. The third scenario envisages the signing of the association agreement with the EU and its member states where it is possible to include all the requirements of the UK to eliminate the «negative impact» on its own economy and social security system.

No matter which scenario will take place, the negotiations on it are going to be touch and cumbersome to discourage other member-states from leaving.

2. The EU referendum of 23 June 2016 has left Scottish voters somewhere between a rock and a hard place. Having rejected Scottish independence in 2014, they are now facing the prospect of being dragged out of the EU and the EU single market against their will. Realistically, remaining in either the single market or the EU may only be possible if Scotland opts for independence, which voters rejected less than three years ago. In-between solutions are conceivable, but very difficult to bring to fruition. The most realistic one would be Scottish EFTA/EEA membership, but it would still have drawbacks. Not only would it be difficult to negotiate given that the Scottish Government is not directly involved in the Brexit negotiations. Westminster would therefore need to be convinced to negotiate this solution not only with the rest of the EU, but separately with the other EFTA states with whom no negotiations are currently planned. As the UK Government’s response to the Scottish Government’s paper “Scotland’s Place in Europe”

shows, this has not happened. In addition, this would need to occur under serious time-pressure. Moreover, it would also require significantly more devolution to Scotland, which would in practice result in Scotland having almost full autonomy from the UK. Again, this is legally possible, but politically difficult. The most likely scenario is that Scotland will leave the EU together with the UK. Due to the need for Scottish cooperation in the internal implementation of Brexit, the Scottish government and parliament might have some leverage to shape Brexit in a way that comes at least close to their wishes. Legally speaking, that leverage is minimal given the unenforceable character of much of the devolution settlement, but this does not mean that politically that leverage does not exist.

3. While the main focus is understandably on the intricacies of the divorce settlement and the exact ramifications of any future relations between the EU and the UK, the issue of the European unity is also quite complex. The Brexit has raised an issue related to an erosion of trust towards the structures of the EU among the European citizens. The often criticized alleged deficits of the EU in terms of democratic legitimacy of its organs and actions are becoming more obvious. The disappointment of many Europeans in the European integration project and a gradual formation of social sentiments «Direct Democracy vs European Integration» can not be neglected any longer.

At the same time, the understanding for the necessity of common European action persists. With this background in mind, many voices from different states have come forward with ideas for reform of the EU. The number of proposals shows the importance of a fundamental debate on the state of Europe. Some proposals aim at a deeper integration within a federal European structure. Some German scholars suggest a 'European republic' as the final goal for future integration steps. A similar concept is brought forward by Brendan Simm, an Irish historian teaching at the University of Cambridge. In his opinion, the time is right for the founding of the United States of Europe within the territory of the current Euro-States. From a French perspective, the EU commissioner Pierre Moscovici is proposing a new European project. These concepts come with great changes of the current European architecture and raise fundamental questions as to the implications for participating countries as well as for those countries outside of such constructions. With Great Britain soon leaving the EU, many different models of a future construction are being discussed. Starting from existing concepts such as the EEA, bilateral agreements, association agreements, free trade agreements, and instruments of neighborhood policy, the new 'continental partnership' offers a model of concentric circles in Europe as a solution. Other ideas that are less far reaching and build upon existing structures and the need for reform of important provisions of the European Treaties are being discussed, too. Consequently the former judge of the German constitutional court, Jürgen Papier, suggests a clearer distribution of competences between the EU and the member states as well as the introduction of a prin-

ciple of subsidiarity that's legally enforceable. With regard to recent developments, the EU-Commission introduced a white paper on the future of Europe on 1st March. It sets out possible paths for the future of Europe and offers five scenarios for the Union's evolution by the year 2025. The first scenario goes under the title 'Carrying On' and implies that the EU27 focuses on delivering its reform agenda from 2014. The second scenario, 'Nothing but the Single Market', sets out a gradual concentration on the single market by the EU27. The third scenario, 'Those Who Want More Do More', allows willing Member States to do more together in specific areas such as defence. With the fourth scenario, 'Doing Less More Efficiently', the EU27 focuses on delivering more and faster in selected policy areas. The last scenario, 'Doing Much More Together', suggests that Member States decide to share more power, resources and decision-making across the board. The white paper was followed by a series of thematic reflection papers in the areas social rights, globalization, defence and EU finances. With those papers and several public information events all over Europe, the Commission stimulated an open debate on the key structures of the European Union and demonstrated willingness to change the direction of the integration process in a profoundly new direction.

To sum up, Brexit creates a new reality that has not yet been manifested. A largely populist move of certain political forces in Great Britain resulted in the decision to leave the EU can significantly change the status quo and open up scope for new opportunities. In the context of the changes in relations between the UK and Brussels and the search for new development paradigms by the EU, the latter should think how to enjoy benefits from the current situation and preserve unity in face of an emerging new reality.

ХЕНДЕЛЬ НАТАЛЬЯ ВЛАДИМИРОВНА

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МЕСТО И РОЛЬ МЕЖДУНАРОДНОГО ЗДРАВООХРАНИТЕЛЬНОГО СОТРУДНИЧЕСТВА В СИСТЕМЕ ДИСЦИПЛИНЫ «МЕДИЦИНСКОЕ ПРАВО»

Медицинское право рассматривают как отрасль системы права Украины, отраслевую юридическую науку и как учебную дисциплину. В каждом из трех подходов к медицинскому праву, на наш взгляд, особенностью является, то, что как самостоятельное явление